



# GUIDE TO CHILD ABUSE REPORTING

FOR CHARTER SCHOOLS AUTHORIZED BY  
THE STATE UNIVERSITY OF NEW YORK BOARD OF TRUSTEES

# INTRODUCTION

Child abuse is a systemic issue and school personnel have distinct responsibilities regarding reporting and preventing child abuse and maltreatment due to their unique access to children. New York State law includes specific requirements for mandated reporters to report suspected child abuse and maltreatment that takes place outside the school setting, and specific protocols for reporting suspected child abuse in the school, which is known as child abuse in an educational setting. This guidance document provides an overview of a charter school education corporation's obligations to report all suspected child abuse and maltreatment in and out of an educational setting.

## DISCLAIMER

Nothing implied or stated in this guidance should be construed to be legal advice. The SUNY Charter Schools Institute (the "Institute") is not a law firm and this guidance should not be interpreted as creating an attorney-client or legal advisor relationship. For questions regarding your specific situation, please consult a qualified attorney. This guidance contains general information and may not reflect current statutes, case law, or other legal developments. The Institute does not guarantee the guidance's content is correct, complete, or up-to-date.

# TABLE OF CONTENTS

## **2**

Reminders

## **3**

Applicability

Who is Required to Report?

## **5**

What Constitutes Abuse?

## **7**

Steps for Reporting

## **10**

Required Training & Resources

## **11**

Investigations

Student Instruction on Prevention

## **12**

APPENDIX

*A: Sample Letter to Parents*

# REMINDERS

*These reminders provide a broad overview of a school's responsibilities regarding child abuse reporting and instruction. Each of the below reminders are thoroughly explained in this guidance document.*

## **Required Resources and Trainings for Child Abuse in an Educational Setting**

- Annually, schools must provide a written statement to all staff members outlining the reporting process of any allegation of child abuse in an educational setting at the hands of a school employee or volunteer.
- Schools must provide ongoing training to all staff members on the reporting process for any allegations of child abuse in an educational setting at the hands of a school employee or volunteer.

## **Required Postings and Resources for Child Abuse Outside an Educational Setting**

- Schools must post in English and in Spanish the toll-free telephone number (1-800-342-3720) operated by the New York State Office of Children and Family Services ("OCFS") to receive reports of child abuse or neglect and directions for accessing the OCFS website at <http://ocfs.ny.gov/main/cps/>. Schools may develop their own notification, or use one developed by OCFS and/or the New York State Education Department ("NYSED").
- Schools must post this information on their website and in highly visible areas of their school buildings such as the main office.
- Schools must provide this information annually to families and upon hire to all staff members.

## **Student Instruction**

- Schools must teach child sexual abuse and exploitation prevention to students in Kindergarten — 8<sup>th</sup> grade.
- Curricular programming and instruction are determined by the school, but schools may wish to consult the grade band curricular benchmarks developed by NYSED on its [Erin's Law website](#).

## **Reporting Child Abuse In an Educational Setting (Education Law Article 23-B)**

When school personnel suspect or receive allegations that a school employee or volunteer has abused a child in an educational setting, they must follow the reporting process below:

1. The school personnel completes the Child Abuse in an Educational Setting Report of Allegation Form and gives it to the designated school administrator;
2. The school administrator determines if there is a reasonable suspicion to believe the abuse occurred;
3. The school administrator provides notice to the child's parents or guardians and notice of their rights, responsibilities, and the procedures that will take place;
4. The school administrator notifies the appropriate law enforcement authorities;
5. The education corporation notifies the Institute, as designees of the SUNY Board of Trustees; and,
6. The head of school, executive director, or similar title, sends the form from Step 1 to the New York State Education Department's Office of School Personnel Review and Accountability ("OSPERA").

## **Reporting Child Abuse Outside of an Educational Setting (Mandated Reporters)**

When mandated reporters have reasonable cause to suspect a child has been abused or maltreated outside of the educational setting, they must follow the reporting process below:

1. The mandated reporter calls the New York Statewide Central Register of Child Abuse and Maltreatment ("SCR");
2. The mandated reporter notifies the head of school, executive director, or similar title; and,
3. Within 48 hours of the call to SCR, the head of school and mandated reporter submit OCFS' form to OCFS.

# APPLICABILITY

## A. Laws and Regulations

New York Education Law Article 23-B requires certain school employees to report allegations of child abuse occurring in educational settings. Education Law Article 23-B is applicable to charter schools because child abuse is a health and safety concern per the New York Charter Schools Act of 1998 (the “Act”).<sup>1</sup> New York State Commissioner of Education Regulation 8 NYCRR § 100.2(hh) provides reporting and training requirements in accordance with Article 23-B.

New York Social Services Law requires persons in certain professions, including school employees, to report suspected child abuse occurring outside the educational setting.<sup>2</sup> In addition, 8 NYCRR § 100.2(nn) requires schools to post and provide to families and staff members the child abuse telephone hotline number and directions for accessing the OCFS website.

Education Law §803-b, known as Erin’s Law, requires schools to teach child sexual abuse and exploitation prevention to students in Kindergarten — 8<sup>th</sup> grade, and is also discussed in this guidance document.

## B. Charter Agreement Provision

In addition to the state laws and regulations, the Model Charter Agreement Section 6.3, available under “Charter Agreement” on the [Institute’s Legal Compliance website](#), requires:

**6.3** Child Abuse in an Educational Setting. Whenever the Education Corporation makes a determination under Article 23-B of the Education Law that there is a reasonable suspicion to believe that an act of child abuse has occurred at one of its schools (within the meaning of the statute), the Education Corporation must notify the [SUNY] Trustees of the same in addition to the other required statutory notifications. The trustees shall not re-disclose this information except in accordance with applicable law.

# WHO IS REQUIRED TO REPORT?

Who is required to report depends on whether the suspected or alleged abuse takes place in an educational setting or outside an educational setting.

**Educational setting** means:

- The building and grounds of a school;
- Buses/vehicles, provided directly or by contract, for the transportation of students to and from school buildings, field trips, co-curricular and extracurricular activities both on and off school grounds;
- All co-curricular and extracurricular activity sites; and,
- Any other location where direct contact between an employee or volunteer and a child has allegedly occurred.<sup>3</sup>

1. Education Law § 2854(b) (“A charter school shall meet the same health and safety, civil rights, and student assessment requirements applicable to other public schools . . .”).

2. Social Services Law §§ 413 and 415.

3. Education Law § 1125(5).

## A. In An Educational Setting

Under Article 23-B of the Education Law, the following school personnel are required to document and report all allegations of child abuse that occurs in an educational setting at the hands of a school employee or volunteer: teachers, school nurses, school guidance counselors, school psychologists, school social workers, school administrators, board members, and any other school personnel required to hold a teaching or administrative license or certificate, as well as licensed and registered physical therapists, licensed and registered occupational therapists, licensed and registered speech-language pathologists, teacher aides, and school resource officers.

## B. Outside An Educational Setting

Mandated reporters are obligated under Social Services Law § 415 to document and report suspected child abuse or maltreatment that occurs outside an educational setting. While mandated reporters are required to report suspected child abuse, any other individuals who have reasonable cause to suspect a child is abused or maltreated may and should also make a report.

In the school context, including pre-Kindergarten programs, **mandated reporters** include:

- School officials;
- Teachers;
- Teacher aides;
- Guidance counselors;
- Psychologists and licensed therapists;
- Mental health professionals;
- Physical and occupational therapists;
- Speech-language pathologists;
- Social workers;
- Nurses;
- Physicians;
- Administrators;
- Bus drivers and bus drivers' supervisors;
- Any other school personnel required to hold teaching or administrative licenses; and,
- Any other full- or part-time compensated school employees required to hold temporary coaching licenses or professional coaching certificates.<sup>4</sup>

Note: Charter school employees exempt from certification or license by the Act must report on the same basis as if they were certified or licensed.

Mandated reporters are required to report suspected child abuse or maltreatment when, while working in their professional or official capacity, they have reasonable cause to suspect:

- A child is abused or maltreated; or,
- A child's parent, guardian, custodian, or other person legally responsible for such child states from personal knowledge facts, conditions, or circumstances which, if correct, would render the child abused or maltreated.<sup>5</sup>

**Reasonable cause to suspect child abuse or maltreatment** means, based on factual observations and professional training and experience, the mandated reporter has a suspicion a parent or other person legally responsible for a child is abusing or maltreating the child in accordance with the definitions included in the next section of this guidance document.

4. Social Services Law § 413.  
5. *Id.*

Reasonable cause is “an objective question that must be answered in light of the information available to the reporter at the time of [the] report.”<sup>6</sup> Information to support reasonable cause does not have to be conclusive, but must be more than a hunch or gut feeling and can include personally witnessing an act, observing physical injury, the child exhibiting behavioral issues, or direct statements from the child.<sup>7</sup>

Mandated reporters who willfully fail to report suspected child abuse or maltreatment may be found guilty of a Class A misdemeanor, punishable by up to one year in jail, and subject to damages.<sup>8</sup>

## WHAT CONSTITUTES ABUSE?

### A. In An Educational Setting

**Child abuse** means any of the following acts committed in an educational setting by an employee or volunteer against a person under the age of 21 enrolled in a school:

- Intentionally or recklessly inflicting physical injury, serious physical injury, or death;
- Intentionally or recklessly engaging in conduct which creates a substantial risk of physical injury, serious physical injury, or death;
- Committing or allowing any child sexual abuse;  
*Note:* Child sexual abuse includes not only sexual intercourse with a student, but also intimate touching with or without clothing. Please see Articles 130 and 263 of the Penal Law for the complete definition of “child sexual abuse.”
- Exposing or attempting to expose the student to indecent materials as defined by Article 235 of the Penal Law; or,
- Using corporal punishment as defined by 8 NYCRR 19.5 and included below.<sup>9</sup>  
*“Corporal punishment means any act of physical force upon a student for the purpose of punishing that student. The term does not include the use of physical restraints, as defined in [8 NYCRR 19.5(7)], to protect the student, another student, teacher or any other person from physical injury when alternative procedures and methods not involving the use physical restraint cannot reasonably be employed to achieve these purposes.”*

A school **employee** means:

- Any person receiving compensation from a school; or,
- Any person whose duties involve direct student contact *and*:
  - Who is receiving compensation from a person or entity that contracts with a school to provide transportation services to children; or,
  - Who is an employee of a contracted service provider placed in a school under a public assistance employment program pursuant to Title 9-B of Article 5 of the Social Services Law.<sup>10</sup>

A school **volunteer** means:

- Any person, other than an employee, who has direct student contact *and*:
  - Provides services to a school; or,
  - Provides services to any person or entity that contracts with a school to provide transportation services to children.<sup>11</sup>

Note: Volunteers do not have to be unpaid.

6. *Thomsen v. Kefalas*, No. 15-CV-2668, 2018 WL 1508735, at \*15 (S.D.N.Y. Mar. 26, 2018).

7. *Diana G-D v. Bedford Cent. School Dist.*, 33 Misc.3d 983-87 (Sup. Ct. Westchester Cty. 2011).

8. Education Law § 1129; Social Services Law § 420; *Kimberly v. Bradford*, 226 A.D.2d 85 (4<sup>th</sup> Dep’t 1996) (upholding damage complaint against teacher).

9. Education Law § 1125(1).

10. Education Law § 1125(3).

11. Education Law § 1125(4).

## B. Outside An Educational Setting

**Child abuse** occurring outside an educational setting means any of the following acts committed against a child under the age of 18 by a parent or other person legally responsible for them:

- Inflicting or creating, or allowing to be inflicted or created, a physical injury or substantial risk of physical injury, other than by accident, which causes or creates:
  - A substantial risk of death;
  - Serious or protracted disfigurement;
  - Protracted impairment of physical or emotional health; or,
  - Protracted loss or impairment of the function of any bodily organ; or,
- Committing, or allowing to be committed, a sex offense against the child as defined by Article 130 of the Penal Law;
- Allowing, permitting, or encouraging the child to engage in sex trafficking or prostitution as defined by Penal Law §§ 230.25, 230.30, 230.32, and 230.34-a;
- Committing any acts of incest as defined by Penal Law §§ 255.25, 255.26, and 255.27;
- Allowing the child to engage in a sexual performance as defined by Penal Law Article 263; or,
- Permitting or encouraging acts related to sex trafficking or severe forms of trafficking as defined by 22 U.S.C. § 7102.<sup>12</sup>

In addition to child abuse, mandated reporters are required to report suspected child maltreatment occurring outside an educational setting. **Child maltreatment** means:

- A neglected child under the age of 18; or,
- A child under the age of 18 who has had serious physical injury inflicted upon them, other than by accident.<sup>13</sup>

A **neglected child** means a child under the age of 18:

- Whose physical, mental, or emotional condition has been impaired, or is in imminent danger of becoming impaired, as a result of the failure of their parent or other person legally responsible to exercise a minimum degree of care by:
  - Failing to provide sufficient:
    - Food;
    - Clothing;
    - Shelter;
    - Education;<sup>14</sup>
    - Medical care, including dental, optometrical, and surgical.<sup>15</sup>
  - Failing to provide proper supervision or guardianship by:
    - Unreasonably inflicting harm, or allowing harm to be inflicted, including excessive corporal punishment;
    - Misusing alcohol or drugs to the extent that the parent loses self-control;<sup>16</sup> or,
    - Any other acts of a similarly serious nature requiring the aid of the court.
- Who has been abandoned by their parents or other person legally responsible as defined by Social Services Law § 384-b(5).<sup>17</sup>

12. Social Services Law § 412(1); Family Court Act § 1012(e).

13. Social Services Law § 412(2).

14. Any efforts by the school or child protective agency to provide education to the child do not remedy this failure.  
15. Poverty or other financial inability to provide food, shelter, clothing, education, or medical care is not maltreatment unless the parent is offered financial assistance and refuses.

16. When a parent or guardian is voluntarily and regularly participating in a rehabilitative program, evidence the child's physical, mental, or emotional condition has been impaired, or is in imminent danger of such, is also required.

17. Family Court Act § 1012(f).

# STEPS FOR REPORTING

## A. In An Educational Setting

The law establishes a formal, standardized procedure that school personnel must follow when they are made aware of allegations of child abuse occurring in an educational setting, the steps of which are outlined below.

Note: The legislature has prescribed these procedures to recognize that investigations of allegations of child abuse, like other criminal conduct, “must not be undertaken by school personnel but must be the responsibility of law enforcement agencies” in order to “promote the objectivity of such investigation and [to] protect the rights and interests of the alleged victim, the accused and the school community.”<sup>18</sup> Therefore, it is important school personnel follow these procedures swiftly and carefully.

### Step 1 - Complete the Written Report and Give to School Administrator

- In any case where an oral or written allegation is made to school personnel, as defined on page 4 of this guidance document, that individual must complete a written report. The [report form](#) (Child Abuse in an Educational Setting Report of Allegation Form) may be found on NYSED’s website.
- Once the written report is completed, it should be provided to a designated school administrator<sup>19</sup> except in cases where the allegation is made against the school administrator. In any case where an oral or written allegation is made *about* the designated school administrator, the report of such allegations shall be made to another administrator designated by the school.

When a child is alleged to have been abused by an employee or volunteer from another school, the written report should be promptly forwarded to the head of school, executive director, or superintendent of the other school.

In any case where an oral or written allegation is made to a school bus driver or supervisor employed by a person or entity that contracts with a school to provide transportation services to children, that individual must promptly report or cause a report to be made to their supervisor, who will then follow the written reporting and school administrator notification procedures. Once the written report is completed it should be provided to a designated school administrator.

Note: Mandated reporters who are required to report allegations of child abuse in an educational setting to the vulnerable persons’ central register of the Justice Center for the Protection of People With Special Needs and do report such allegations will have satisfied the reporting requirement under the Education Law. Such reports may skip to Step 5- Education Corporation Notifies Authorizer.

### Step 2 - School Administrator Determines if there is Reasonable Suspicion

- When a school administrator receives the written report, the school administrator must determine if there is “reasonable suspicion to believe an act of child abuse [in an educational setting] has occurred.”

18. *People v. Heil*, 16 Misc.3d 1125(A) at \*7 (Monroe Cty. Ct. 2007) (unreported disposition) citing L.2000, c. 180, § 1.

19. Education Law § 1125(6) (“Administrator’ or ‘school administrator’ shall mean a principal, or the equivalent title, in a school, or other chief school officer.”).

20. In this context, “parents” refers to either or both of a child’s parents or other persons legally responsible for the child. See Education Law § 1125(8).

### Step 3 - School Administrator Provides Notice and Rights to Parents/Guardians

- A school administrator, who has reasonable suspicion that the allegations might be true, must promptly notify the child’s parents.<sup>20</sup>
- The school must also promptly provide the child’s parents with a written statement that sets forth their parental rights, responsibilities, and the procedures that will take place. A sample letter is attached as **Appendix A** to this guidance document.

The school does not need to provide a copy of the actual report to the parents. Schools should consult their legal counsel before disclosing or declining to disclose a child abuse report.

### Step 4 - School Administrator Notifies Law Enforcement

- A school administrator, who has reasonable suspicion that the allegations might be true, must promptly notify appropriate law enforcement authorities. A school administrator should not delay in contacting appropriate law enforcement authorities even if they are unable to contact a school “superintendent” such as the head of school, executive director, or similar title.

### Step 5 - Education Corporation Notifies Authorizer

- A school administrator should notify personnel at the education corporation level as soon as possible.
- The education corporation must notify the Institute, as designees of the SUNY Board of Trustees Charter Schools Committee, of any reasonable suspicion that an act of child abuse has occurred.<sup>21</sup>

### Step 6 - “Superintendent” Notifies Commissioner of Education

- The “superintendent” of the school (i.e., the head of school, executive director, or similar title) must promptly forward the report to the Commissioner of Education by emailing the report to NYSED’s OSPRA at [OSPRA@nysed.gov](mailto:OSPRA@nysed.gov).

### Additional Information

- The report and any supporting documents included with the report are confidential and may only be disclosed to persons authorized to receive such information including law enforcement officials involved in the criminal investigation or by a court-ordered subpoena.<sup>22</sup> Willful disclosure of such materials to unauthorized persons is a Class A misdemeanor punishable by up to one year in jail.
- If the report does not result in a criminal conviction, the report must be deleted from all school and school district records no later than five years from the date the report was written.<sup>23</sup> If a report does lead to a criminal conviction, the district attorney shall provide notice to the Commissioner of Education, the head of school where the child abuse occurred, and to the school where the child attends school, if different.
- The Education Law does not give schools the authority to take adverse action against an employee, volunteer, or supervisor because of the existence of a report that has not been substantiated. Any proposed employment action against an accused employee should be reviewed by employment counsel for the school prior to implementation.<sup>24</sup>

**PLEASE NOTE: A school administrator may not enter into an agreement with an accused employee or volunteer to have such person resign or submit to voluntary suspension in exchange for a report of alleged child abuse being withheld from law enforcement or educational authorities. Violation of this rule is a felony and subject to a \$20,000 fine.<sup>25</sup>**

20. In this context, “parents” refers to either or both of a child’s parents or other persons legally responsible for the child. See Education Law § 1125(8).

21. Model Charter Agreement § 6.3 (reproduced on page 2 of this guidance document).

22. Education Law § 1127.

23. Education Law § 1128-a(2).

24. See Education Law § 1131(3).

25. Education Law § 1133(1), (2).

## **B. Outside An Educational Setting**

When a mandated reporter has reasonable cause to suspect a child has been abused or maltreated outside of the educational setting, such person should follow the steps below.

### **Step 1 - Immediately Call In Report**

- Once a person believes a child has been abused or maltreated, the person must make a report immediately to SCR at 800-635-1522. A trained specialist will answer the call and ask for as much information as the person can provide about both the suspected abuse or maltreatment and the family of the child. There is no requirement to notify the parents or other persons legally responsible either before or after the call to SCR.

The education corporation or school may not impose any conditions upon a staff member making this report (i.e., prior approval or notification).

### **Step 2 - Immediately Notify the Head of School**

- The person should then immediately notify the head of school, or person in charge at a school, who will then be responsible for all subsequent actions.

### **Step 3 - Complete Written Report within 48 Hours**

- All oral reports must be followed by a written report within 48 hours. Written reports shall be made in a manner prescribed and on forms supplied by OCFS. The mandated reports' [written form](#) (LDSS-2221A) may be found on the OCFS website.

Once a report is received, the Child Protective Services (“CPS”) unit of the local department of social services is required to begin an investigation of each report within 24 hours. The investigation should include an evaluation of the safety of the child named in the report and any other children in the home, and a determination of the risk to the children if they continue to remain in the home. CPS may take a child into protective custody if it is necessary for the protection from further abuse or maltreatment. Based upon an assessment of the circumstances, CPS may offer the family appropriate services. The CPS caseworker has the obligation and authority to petition the Family Court to mandate services when they are necessary for the care and protection of a child.

CPS has 60 days after receiving the report to determine whether the report is “indicated” or “unfounded.” The law requires CPS to provide written notice to the parents or other subjects of the report concerning the rights afforded to them by the Social Services Law. The CPS investigator will also inform the SCR of the determination of the investigation.

Please note that any person who participates, in good faith, in making a report of suspected child abuse or maltreatment is immune from any civil or criminal liability.<sup>26</sup> In addition, no education corporation may take any retaliatory action against any staff member for making a report based on reasonable cause to suspect child abuse or maltreatment.

# REQUIRED TRAINING & RESOURCES

## **Child Abuse In An Educational Setting**

At least once a year, schools must provide a written statement to teachers and other school officials outlining the reporting process of Article 23-B. This guidance document and [NYSED's Child Abuse in an Education Settling Training Requirements website](#) may be used to help identify which school personnel are required to receive the written statement (all of the school personnel listed on page 4 of this guidance document) and the reporting process for child abuse in an educational setting (Steps 1-6 beginning on page 7 of this guidance document).

Article 23-B of the Education Law and 8 NYCRR § 100.2(hh)(2) also require schools to provide training and resources on child abuse in an educational setting.

The training must include, at a minimum:

- Specific duties of school employees upon receipt of an allegation of child abuse in an educational setting;
- Confidentiality of records;
- Specific duties of school administrators upon receipt of an allegation;
- Penalties for failure to report and comply with requirements;
- Notification by the district attorney and actions taken upon criminal conviction of a licensed or certified employee;
- Prohibition of the unreported resignation or voluntary suspension of an employee, volunteer, or supervisor accused of child abuse in an educational setting after an allegation is made;
- Information regarding the physical and behavioral indicators of child abuse and maltreatment;
- Specific reporting requirements upon receipt of an allegation of child abuse outside an educational setting; and,
- Legal protections for reporters.

## **Child Abuse Outside An Educational Setting**

Pursuant to 8 NYCRR § 100.2(nn), schools must post in English and in Spanish the toll-free telephone number (1-800-342-3720) operated by OCFS to receive reports of child abuse or neglect and directions for accessing the OCFS website at <http://ocfs.ny.gov/main/cps/>. Schools may develop their own notification, or use one developed by OCFS and/or NYSED. Schools must post this information on their website and in highly visible areas of their school buildings such as the main office.

At least annually, schools must provide this information to families. All staff members must receive this information upon hire.

# INVESTIGATIONS

Law enforcement personnel or child protective services may appear at schools requesting to interview students or to review student records regarding child abuse reporting and investigations or other investigations involving students. The table below summarizes who is allowed access to students for interviews and access to student records and under what conditions.

<b>Entity</b>	<b>Allowed to Interview Student?</b>	<b>Allowed Access to Student Records?</b>
Police Officer	Not without parental consent or a court order	Not without parent consent or a court order or subpoena
Child Protective Services and/or District Attorney assisting CPS under 18 NYCRR 432.3(i) (2)	Yes, even without parental consent	Yes, access to records relevant to an investigation of abuse

Schools may require CPS and law enforcement to comply with standard visitor policies and procedures. The school may also authorize a staff member to be present during interviews.

# STUDENT INSTRUCTION ON PREVENTION

Education Law § 803-b, known as Erin’s Law, requires public schools to teach child sexual abuse and exploitation prevention to students in grades Kindergarten — 8<sup>th</sup> grade. Erin’s Law is intended to help children, teachers, and parents identify sexual abuse, and to provide awareness, assistance, referral, and resource information for children and families who are victims of child sexual abuse.

Though curricular programming and instruction are determined by the school, NYSED developed grade band curricular benchmarks to assist schools in implementing Erin’s Law. The grade band curricular benchmarks, as well as other helpful resources, are available on [NYSED’s Erin’s Law website](#).

# APPENDIX A

## **SAMPLE LETTER TO PARENTS OF PARENTAL RIGHTS, RESPONSIBILITIES, AND PROCEDURES**

**{INSERT SCHOOL LETTERHEAD}**

Dear [parent/s or guardian/s name/s],

The [name of charter school] is deeply committed to the welfare and safety of its students and takes all allegations of child abuse seriously. You are receiving this letter because a formal allegation of abuse that occurred within the school setting concerning your child has been documented and forwarded to the appropriate law enforcement authorities. Please read the following to understand your rights and the procedures that the school is required to follow so that you know what you may expect.

### **DUTIES OF SCHOOL EMPLOYEES**

The law requires all physicians, social services workers, licensed therapists, physical therapists, occupational therapists, speech-language pathologists, mental health professionals, full or part-time compensated school employees required to hold a temporary coaching license or professional coaching certificate, school officials, school teachers, school guidance counselors, school psychologists, school social workers, school nurses, school administrators, or other school personnel required to hold a teaching or administrative license or certificate, as well as teacher aides, school resource officers, school bus drivers, and school bus driver's supervisors to complete a written report when that individual has learned of an allegation that a child has intentionally or recklessly been harmed by a school employee or volunteer.

When a mandated reporter is made aware of allegations of child abuse occurring in an educational setting they must complete the State's "Child Abuse in an Educational Setting Confidential Report of Allegation." The submitted report must include the full name of the child, the name of the child's parents or guardians, the name of the person making the allegation and his or her relationship to the child, the name of the employee or volunteer against whom the allegation was made, and the details of the allegation. The completed report must be personally delivered to the designated school administrator, unless the allegation is against the school administrator, then the report must be delivered to a designated alternate school administrator.

If the allegations are made against an employee or volunteer from a school outside the one where the child attends school, the completed report must be forwarded to both the school where the child attends school and the school/district where the alleged harm occurred.

### **DUTIES OF SCHOOL ADMINISTRATORS AND SUPERINTENDENTS**

When a school administrator receives a completed report and has reasonable suspicion to believe that an act of child abuse has occurred, the school administrator must promptly notify the child's parents. The school administrator or head of school must also promptly forward the report to appropriate law enforcement authorities. When the allegation is made by someone other than the child or the child's

parents, the school administrator must learn from the person making the report the source and the basis for the allegation. The school must provide parents with this copy of parental rights, responsibilities, and procedures.

### **ADDITIONAL DUTIES**

When the school administrator forwards a report to appropriate law enforcement authorities, he or she must also refer the report to the Commissioner of Education when the accused employee or volunteer holds an educational certificate or license. When a report does not lead to a criminal conviction, the school must remove the report from all school records within five years.

### **NOTIFICATION BY DISTRICT ATTORNEY**

The district attorney must notify the school administrator of the status of the investigation, if delayed or terminated, whether criminal charges will be filed, and the outcome of the criminal case.

### **ACTIONS TO BE TAKEN UPON A CRIMINAL CONVICTION**

When a report leads to a criminal conviction of a licensed or certified employee, the district attorney must notify the Commissioner and the school superintendent. The Commissioner must then promptly make an official finding as to whether the individual meets the definition of possessing good moral character according to state regulations.

A school is not permitted to take action against an employee or volunteer when there is no reasonable suspicion to believe that the report was true. A school employee or volunteer who does have action taken against them because of a report is entitled to receive a copy of the report and to respond to the allegations.

### **DUTIES OF THE COMMISSIONER OF EDUCATION**

The Commissioner must prepare a form for schools to complete when allegations have been made. The form should include the applicable legal definitions and enough space so that the person completing the form can include any and all information that would be helpful in explaining the allegations being made.

The Commissioner must also create rules concerning training school personnel and other applicable individuals about reporting and procedural requirements.

### **CONFIDENTIALITY OF RECORDS**

Reports and any additional materials included with the report are confidential. The report may not be shared with unauthorized persons, but may be shared with law enforcement authorities investigating the allegations or by a court-ordered subpoena. School administrators must take reasonable care to prevent the report from being inappropriately disclosed. Willful disclosure of a report is a Class A misdemeanor.

**PENALTIES FOR FAILURE TO COMPLY**

Willful failure by an employee to prepare and submit a report of an allegation of child abuse is a Class A misdemeanor. Willful failure by a school administrator to submit a written report to appropriate law enforcement authorities is a Class A misdemeanor and subject to a civil penalty not to exceed five thousand dollars upon an administrative determination by the Commissioner.

**PROHIBITION AND PENALTY AGAINST UNREPORTED EMPLOYEE OR VOLUNTEER RESIGNATION**

An accused employee or volunteer may not agree to resign or be suspended in exchange for a report of alleged child abuse being withheld from law enforcement authorities. Violation of this rule is a felony and subject to a monetary fine.

For more information, please contact [INSERT SCHOOL CONTACT INFORMATION]



**Charter Schools Institute**  
The State University of New York

[www.newyorkcharters.org](http://www.newyorkcharters.org)

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